

Message Text

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12

ACTION EB-07

INFO OCT-01 EUR-12 EA-06 NEA-10 ISO-00 CAB-02 CIAE-00

COME-00 DODE-00 DOTE-00 INR-07 NSAE-00 FAA-00 L-02

/047 W

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R 161733Z MAY 75

FM AMEMBASSY BRUSSELS

TO SECSTATE WASHDC 3928

INFO AMEMBASSY ANKARA

AMEMBASSY BONN

AMEMBASSY COPENHAGEN

AMEMBASSY DUBLIN

AMEMBASSY LISBON

AMEMBASSY MADRID

AMEMBASSY OSLO

AMEMBASSY PARIS

AMEMBASSY ROME

AMEMBASSY STOCKHOLM

AMEMBASSY THE HAGUE

AMEMBASSY VIENNA

AMEMBASSY LONDON

AMCONSUL MELBOURNE

AMEMBASSY WELLINGTON

AMEMBASSY NEW DELHI

AMEMBASSY TOKYO

AMEMBASSY BEIRUT

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E.O. 11652: NA

TAGS: EAIR, BE

SUBJECT: CIVAIR - PANAM COMMISSION

REF: STATE 109664

1. SUMMARY: BELGIAN AERONAUTICS ADMINISTRATION HAS TOLD

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PANAM NOT TO IMPLEMENT ITS INTENTION OF OFFER INCENTIVE

INCREASES TO TRAVEL AGENTS IN BELGIUM BELGIAN DIRECTOR GENERAL OF CIVIL AVIATION HAS INFORMED EMBASSY BY LETTER OF BELGIAN POSITION. NEITHER PANAM OR BELGIAN AUTHORITIES HAVE REQUESTED EMBASSY TO TAKE ANY PARTICULAR ACTION. END SUMMARY.

2. ON APRIL 10, PANAM BRUSSELS OFFICE ANNOUNCED TO BELGIAN TRAVEL AGENTS ITS INTENTION TO PUT INTO EFFECT THE QUOTE AGENCY INCENTIVE COMMISSION UNQUOTE DESCRIBED REFTEL AS OF APRIL 1. THE AIRLINE DID NOT CORRESPOND WITH BELGIAN GOVERNMENT AUTHORITIES ON THIS SUBJECT BECAUSE THEY DID NOT REGARD AGENTS' COMMISSION AS FALLING WITHIN BELGIAN GOVERNMENT PURVIEW. ON APRIL 14, HOWEVER, DIRECTOR GENERAL OF CIVIL AVIATION WELLEM VANDERPERREN INFORMED PANAM BY TELEX THAT INTRODUCTION OF AGENCY INCENTIVE COMMISSION QUOTE IS NOT ACCEPTABLE TO THE COMPETENT BELGIAN AUTHORITIES, FIRSTLY BECAUSE IT OCCURRED OUTSIDE OF IATA PROCEDURES, AND SECONDLY BECAUSE OF NOT HAVING BEEN APPROVED BY THE SAID AUTHORITIES. UNQUOTE (UNOFFICIAL EMBASSY TRANSLATION FROM FRENCH.)

3. PANAM LOCAL REP O'GORMAN REPLIED BY LETTER ON APRIL 28, CALLING ATTENTION TO FACT THAT PANAM HAD WITHDRAWN FROM IATA RESOLUTION AND WAS THEREFORE NO LONGER BOUND BY PROVISIONS CONCERNING REMUNERATION TO TRAVEL AGENTS. IN ADDITION PANAM ASKED BY WHAT LEGAL AUTHORITY THE BELGIAN GOVERNMENT CONSIDERED ITSELF ENTITLED TO REQUIRE SUBMISSION OF PROPOSED CHANGES IN SUCH REMUNERATION FOR APPROVAL. THIS QUESTION WAS POSED AFTER PANAM OBTAINED LEGAL ADVICE AS TO WHETHER A BASIS EXISTED FOR ASSERTION OF BELGIAN GOVERNMENT AUTHORITY IN THIS AREA. LAWYER FOUND NO JUSTIFICATION EITHER UNDER U.S.-BELGIUM AIR TRANSPORT AGREEMENT OR IN BELGIAN LAW FOR SUCH A REQUIREMENT.

4. DIRECTOR GENERAL VANDERPERRE REPLIED TO PANAM BY LETTER ON MAY 13, REPEATING BOTH PREVIOUSLY STATED REASONS FOR OBJECTING TO PANAM'S INCENTIVE COMMISSION PLAN. REGARDING PANAM'S WITHDRAWAL FROM IATA RESOLUTION, LIMITED OFFICIAL USE

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VANDERPERREN LETTER SAYS THAT PANAM'S ACTION WAS DONE IN VIOLATION OF IATA PROCEDURES IN FORCE AT THAT TIME AND SINCE THEN. AS FOR THE QUESTION OF BELGIAN GOVERNMENT INTEREST IN AGENTS' COMMISSIONS, VANDERPERREN REFERS TO SECTION V OF ANNEX TO BILATERAL AIR TRANSPORT AGREEMENT, ON SETTING RATES, AND SAYS THAT SETTING OF RATES QUOTE INCLUDES NOT ONLY PRICES AND CONDITIONS OF TRANSPORT BUT EQUALLY CONDITIONS SALE. UNQUOTE HE ADDS

THAT SECTION V.D. OF THE ANNEX
REQUIRES THAT ANY INDIIATIVE OF THIS TYPE MUST BE
SUBMITTED FOR THE APPROVAL OF BELGIAN AERONAUTICS
AUTHORITIES AT LEAST 30 DAYS BEFORE THE DATE FORESEEN
FOR ENTRY INTO FORCE, AND THAT NO SUCH APPLICATION HAS
AS YET BEEN MADE. VANDERPERREN CONCLUDES BY ASKING
O'GORMAN QUOTE TO CONFIRM TO ME THAT PAN AMERICAN WORLD
AIRWAYS WILL CONFIRM TO THE INSTRUCTIONS OF THE BELGIAN
AUTHORITIES WITHOUT FURTHER DELAY. UNQUOTE

5. PANAM REP KUSTERS (IN O'GORMAN'S ABSENCE) HAS
INFORMED EMBASSY THAT TEXT OF VANDERPERREN'S LETTER HAS
BEEN REFERRED TO OFFICE OF PANAM VP IN LONDON FOR
FURTHER INSTRUCTION. THEY HAVE ALSO REFERRED TO LETTER
TO THEIR BELGIAN ATTORNEY FOR FURTHER ADVISE AS TO
WHETHER VANDERPERREN'S LETTER CONSTITUTES A LEGAL ORDER.
THEIR TENTATIVE OPINION IS THAT THEY ARE NOT BOUND TO
COMPLY FOR EITHER OF THE REASONS CITED BY DIRECTOR
GENERAL; FIRST, BECAUSE THEIR WITHDRAWAL FROM IATA
RESOLUTION IS INDEED VALID, AND SECOND, BECAUSE THE
BILATERAL ANNEX V APPLIES TO FARES OFFERED TO THE PUBLIC
BUT NOT TO COMMISSION ARRANGEMENTS BETWEEN THE AIRLINE
AND TRAVEL AGENTS.

6. EMBASSY HAS BEEN KEPT INFORMED OF UNFOLDING OF THIS
ISSUE BOTH BY PANAM AND BY BELGIA AERONAUTICS
ADMINISTRATION. WE HAVE NOT INITIATED ANY ACTION NOR
HAVE WE BEEN ASKED TO DO SO. WE HAVE DISCUSSED
SUBSTANCE OF STATE 109664 WITH LOCAL PANAM OFFICE
(BUT NOT YET WITH BELGIAN AUTHORITIES) AND HAVE TOLD
THEM THAT IF PANAM WISHES EMBASSY TO INTEREVENE WITH
BELGIAN GOVERNMENT IN THIS MATTER WE WOULD HAVE TO
SEEK APPROVAL FROM DEPARTMENT BEFORE DOING SO. FIRESTONE
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